

REMARKS

These remarks are in response to the Office Action dated July 18, 2007. Claims 12-18 and 22-25 were pending in the application at the time of examination.

In the Office Action, claims 12-18, 24 and 25 are rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Pat. No. 5,667,523 ("Bynon").

Claim 22 is rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 4,793,348 ("Palmaz").

Claim 23 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Palmaz in view of U.S. Pat. No. 6,221,102 ("Baker").

The Examiner has withdrawn the indication of allowable subject matter in claims 22-24.

Reconsideration of the application is respectfully requested in light of the following remarks.

I. REJECTIONS UNDER 35 U.S.C. § 102

a. Rejection to Independent Claims 12, 24 and 25

Claims 12-18, 24 and 25 are rejected under 35 U.S.C. § 102(e) as anticipated by Bynon. The Examiner asserts that Bynon clearly anticipates each and every limitation of the rejected claims. Applicant respectfully traverses these rejections.

Applicant's independent claims 12 and 24 are directed to a stent comprising at least one limb, while independent claim 25 is directed to a limb forming a portion of a stent. In each of these independent claims, each limb is "comprised of two curved portions having opposite directions of curvature, an intermediate straight, flat mid-portion connecting the two curved portions and a short, straight segment at each end."

The Bynon patent is directed to a dual supported intraluminal graft comprising a biocompatible flexible layer sandwiched between two structural support layers. (*see, e.g.*, Bynon Abstract). FIG. 1 is a first preferred embodiment of the dual supported intraluminal graft comprising a tubular shaped configuration which includes a configuration of the support members. (*see, e.g.*, Bynon at col. 5, lines 59-62; FIG. 1). The patent states that "a first tubular shaped support member 18 ... preferably comprises a stent like that described in U.S. Pat. No. 4,733,665 issued to Palmaz.... Like the first tubular shaped support member 18, the second

tubular shaped support member 20, preferably comprises a Palmaz stent.” (see Bynon at col. 7, lines 9-11, 18-20; FIG. 1).

Notwithstanding the significant structural differences between the stent disclosed in Bynon’s FIG. 1 and the figures of applicant’s invention, Bynon neither discloses nor teaches all of the limitations of applicant’s claims. Solely by way of example, Bynon neither teaches nor suggests a structure as described in applicant’s claim 13, which requires, *inter alia*, “wherein the short, straight segments at each end of the limb are joined to a short, straight segment of an adjacent limb to form a point of attachment.”

Importantly, while the Examiner rejects claim 13 as anticipated by Bynon, there is absolutely no language in the Office Action addressing the limitation of claim 13, or how Bynon anticipates this claim. (see Office Action dated July 18, 2007, at pages 2-4). In short, the Examiner does not address applicant’s claim 13 whatsoever, and applicants submit that the subject matter of claim 13 is allowable. Specifically, Bynon clearly does not teach or suggest a structure “wherein the short, straight segments at each end of the limb are joined to a short, straight segment of an adjacent limb to form a point of attachment.” Even under the Examiner’s interpretation of Bynon, the reference clearly shows that adjacent “limbs” are attached only at the “curved portions.” There is absolutely no attachment of adjacent limbs at the “short, straight segments,” according to the Examiner’s interpretation of FIG. 1 of Bynon (see Office Action dated July 18, 2007, at page 4).

By contrast, applicant’s specification, and in particular, pages 16-17 and FIGS. 2-10, describe and show embodiments “wherein the short, straight segments at each end of the limb are joined to a short, straight segment of an adjacent limb to form a point of attachment.” As noted above, this is neither taught nor suggested under the Examiner’s interpretation of Bynon (or any other interpretation of Bynon). The “short, straight segments” of the Bynon stent are simply not connected together, but rather adjacent “limbs” are attached only at the “curved portions” of Bynon’s stent.

Applicant has amended independent claims 12, 24 and 25 to incorporate the limitation of dependent claim 13, and have therefore cancelled claim 13. Independent claims 12, 24 and 25 now recite “wherein the short, straight segments at each end of the limb are joined to a short, straight segment of an adjacent limb to form a point of attachment.”

For at least the reasons set forth above, applicant respectfully submits that independent claims 12, 24 and 25 are in condition for allowance.

Moreover, since dependent claims 14-18 depend from independent claim 12, they are allowable for at least the reasons set forth above.

b. Rejection to Independent Claim 22

Independent claim 22 is rejected under 35 U.S.C. § 102(b) as anticipated by Palmaz. Like independent claims 12, 24 and 25 discussed above, independent claim 22 also has been amended to recite “wherein the short, straight segments at each end of the limb are joined to a short, straight segment of an adjacent limb to form a point of attachment.”

Applicant respectfully submits that Palmaz neither teaches nor suggests a structure meeting all of the limitations of amended claim 22, and in particular, the limitation “wherein the short, straight segments at each end of the limb are joined to a short, straight segment of an adjacent limb to form a point of attachment.”

Like the Bynon reference, the Palmaz reference clearly shows that adjacent “limbs” are attached only at the “curved portions.” There is absolutely no attachment of adjacent limbs at the “short, straight segments” of Palmaz, according to the Examiner’s interpretation of FIG. 2 of Palmaz (see Office Action dated July 18, 2007, at page 6). Since the adjacent “limbs” of Palmaz are only connected at the “curved portions,” Palmaz cannot anticipate independent claim 22.

For at least the reasons set forth above, applicant respectfully submits that independent claim 22 also is in condition for allowance.

II. REJECTIONS UNDER 35 U.S.C. § 103

a. Rejection to Independent Claim 23

Independent claim 23 is rejected under 35 U.S.C. § 103(a) as unpatentable over Palmaz in view of Baker. As noted in section I.B of the present Response, Palmaz neither teaches nor suggests a structure “wherein the short, straight segments at each end of the limb are joined to a short, straight segment of an adjacent limb to form a point of attachment.” Rather, the Palmaz reference clearly shows that adjacent “limbs” are attached only at the “curved portions.” Further, Baker does not make up for this deficiency of Palmaz because Baker does not teach or suggest a

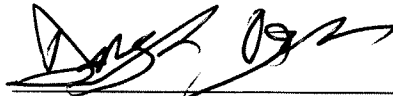
structure "wherein the short, straight segments at each end of the limb are joined to a short, straight segment of an adjacent limb to form a point of attachment."

For at least the reasons set forth above, applicant respectfully submits that independent claim 23 also is in condition for allowance.

CONCLUSION

Each of the rejections in the Office Action dated July 18, 2007 has been addressed and no new matter has been added. Applicant submits that all of pending claims 12, 14-18 and 22-25 are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to contact the undersigned attorney if such communication would expedite the prosecution of this application.

Respectfully submitted,



Douglas A. Oguss
Registration No. 48,469
Attorney for Applicant

Dated: October 18, 2007

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200